S.B. Civil Writ Petition No.8528/02
Mukesh Kumar Padoliya Vs. State & Anr.

Date of Order : 15/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Ashish Saksena, for petitioner
Mr. B.K. Sharma, Dy.G.A.

Instant petition has been filed against the order passed from the office of Collector, Ajmer dt.16th July, 2002 whereby the petitioner has been removed from service in exercise of Rule 4(cha)(1) sub-clause (II) of Rajasthan Land Revenue [Land Record] Rules, 1957.

The preliminary objection has been raised by the respondents in their reply that the order impugned in the present writ petition is appealable. In the absence of which, the present writ petition is not maintainable in view of alternative statutory remedy available to the petitioner and no justification has come forward from the petitioner as to why the alternative statutory remedy has not been availed.

In the absence whereof, I am not inclined to entertain the writ petition in exercise of extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, particularly, when statutory remedy of appeal is available to him and all objections which he raised in the writ petition are available to raise before the competent appellate authority.

Counsel further submits that as per legal advice extended to petitioner, he has approached this court questioning the validity of order Ann.21 dt.16th July, 2002 passed by the Collector, but if he is now being asked to prefer appeal, certainly it is barred by

limitation and will certainly cause prejudice in examining grievance on merits.

Counsel for respondent has not seriously opposed his submission.

Accordingly, I consider it proper that if appeal is preferred before the appellate authority against the order dt.16th July, 2002 within 30 days from today, the same be treated in limitation and decide it on merits in accordance with law.

With the above directions, the writ petition stands disposed of.

[Ajay Rastogi],J.

FRB